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In the Supreme Court of the United States

NATIONAL INSTITUTE OF FAMILY AND LIFE ADVOCATES, dba NIFLA, *et al.*,
Petitioners,

v.

XAVIER BECERRA,
Attorney General of California, *et al.*,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF FOR *AMICUS CURIAE* CHARLOTTE LOZIER INSTITUTE IN SUPPORT OF PETITIONERS

CATHERINE GLENN FOSTER
Counsel of Record
THOMAS M. MESSNER
1200 New Hampshire Ave., N.W.
Suite 750
Washington, DC 20036
(202) 223-8073
cfoster@lozierinstitute.org

Counsel for Amicus Curiae

Becker Gallagher · Cincinnati, OH · Washington, D.C. · 800.890.5001

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INTEREST OF *AMICUS CURIAE*[1]

Amicus Curiae Charlotte Lozier Institute ("CLI" or "Lozier Institute") is the education and research arm of the Susan B. Anthony List. Named after a 19th century feminist physician who, like Susan B. Anthony, championed women's rights without sacrificing either equal opportunity or the lives of the unborn, the Lozier Institute studies federal and state policies and their impact on women's health and on child and family well-being.

In pursuit of its mission, Lozier Institute has undertaken a variety of initiatives focused on Pregnancy Help Centers ("PHCs"). For example, Lozier Institute has conducted a variety of survey research and evaluations designed to support PHC effectiveness and best practices. This research involves online survey instruments, market research, public opinion polling, message testing, and brand enhancement. Lozier Institute shares the results of this research with individual centers and center networks, combining quantitative measurements with advice on questions from presentation of services to nomenclature and avenues of advertising. Lozier Institute has also documented the popularity and reach of PHCs, supporting their efforts to communicate the value they offer to the public through low- and no-cost services to

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[1] No counsel for a party authored this brief in whole or part. No one other than *Amicus Curiae* Charlotte Lozier Institute or its counsel made a monetary contribution to the preparation or submission of this brief. On or before April 11, 2017, counsel of record for all parties received notice that *Amicus Curiae* Charlotte Lozier Institute intended to file this brief and all parties have consented to the filing of this brief.

some of the nation's most disadvantaged populations and communities.

The success of these vital nonprofits is a core part of Lozier Institute's vision for a better America. Lozier Institute has a strong interest in working to ensure that PHCs remain free to pursue their mission and live out the principles that inspire them to serve both mothers and their children.

SUMMARY OF THE ARGUMENT

Amicus Lozier Institute makes two arguments in support of the writ for a petition of certiorari.

First, more than 2,300 Pregnancy Help Centers ("PHCs") nationwide provide vital, highly valued services to vulnerable mothers and children on a free or low-cost basis. Amicus reviews and sets forth the findings of a major report on PHC work that demonstrates the enormous social value contributed by PHCs. For example, "In 2010, [PHCs] served over 2.3 million people with pregnancy assistance, abstinence counseling and education, community outreach programs and referrals, and public health linkages."[2] "A conservative estimate of community cost savings for these services during 2010 is over $100 million."[3] "In addition to specific cost savings, pregnancy centers drew on the help of 71,000 volunteers who performed

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[2] Family Research Council, *A Passion to Serve: How Pregnancy Resource Centers Empower Women, Help Families, and Strengthen Communities* iv (2d ed. 2010) [hereinafter PHC Report 2d Edition], http://downloads.frc.org/EF/EF12A47.pdf.

[3] *Id.*

an estimated 5,705,000 uncompensated hours of work in 2010."[4]

Direct services provided by PHCs, including medical PHCs, include ultrasound and other medical services, prenatal care, education on prenatal development, parenting education classes, and material assistance to mothers and children. PHCs also "play a critical role in referring women for necessary health care and support services across the country."[5] PHCs "are embedded within almost every type of community across the country,"[6] and PHC services "are generally provided at little or no cost to clients."[7]

The public value placed on PHC work manifests in various government actions. PHCs receive referrals from state health departments. Further, although primarily supported by private funding, PHCs have received financial support from both the federal and state governments. In addition, PHCs have been publicly commended or otherwise recognized by government at both the state and federal levels as well as by many individual public officials and community leaders.

Finally, *Amicus* explains that "[PHCs] receive an extraordinarily high approval rating from the clients

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[4] *Id.* at 1.

[5] *Id.* at 11.

[6] *Id.*

[7] *Id.* at 7.

they serve."[8] One national PHC affiliation organization claims that PHC satisfaction ratings it measured were higher than those of Netflix, Chipotle, and the iPhone. These findings correspond closely with the findings of a 2015 report that found very high ratings on experience with PHCs and the desirability of having organizations like PHCs in local communities.

Second, Amicus *argues that forcing PHCs to refer for abortion undermines their mission and the principles that inspire them to serve vulnerable mothers and children.* For the people who are employed by, donate to, or volunteer with local PHCs, the work is truly a labor of love. PHCs are devoted to loving both mothers and children through practical action. In many if not most cases this devotion springs from deeply held religious or moral commitments about the value of all human life and the obligation to serve those in society who are suffering, in crisis, or at disadvantage. Forcing PHCs to refer for abortion undermines their mission and burdens the principles that inspire them to serve mothers and children.

Whatever interest California might assert in providing information about the availability of abortion services, it cannot be denied that, as this Court has

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[8] Brief for Pregnancy Care Organizations Care Net, Heartbeat Int'l, Inc., Nat'l Inst. of Family and Life Advocates *et al.* as *Amici Curiae* Supporting Plaintiffs-Appellees at 2, *Greater Balt. Ctr. for Pregnancy Concerns, Inc. v. Mayor and City Council of Balt.*, 683 F.3d 539 (4th Cir. 2012) (No. 11-1111) [hereinafter Brief for Pregnancy Care Organizations and Centers], http://www.aul.org/wp-content/uploads/2011/06/11-1111-Greater-Baltimore-Center-v-Mayor-and-City-Council-of-Baltimore-PCC-amicus-brief.pdf.

stated, abortion is a "unique act," *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 852 (1992), and is "inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life," *Harris v. McRae*, 448 U.S. 297, 325 (1980). In the words of one federal court, "[t]he rationality of distinguishing between abortion services and other medical services when regulating physicians or women's healthcare has long been acknowledged by Supreme Court precedent." *Greenville Women's Clinic v. Bryant*, 222 F.3d 157, 173 (4th Cir. 2000). Nowhere is the "unique" and "inherently different" nature of abortion more deeply felt than in forcing pro-life individuals and institutions to promote or participate in it.

ARGUMENT

More than 2,300 Pregnancy Help Centers ("PHCs") nationwide provide vital, highly valued services to vulnerable mothers and children on a free or low-cost basis. Forcing PHCs to refer for abortion undermines their mission and the principles that inspire them to serve vulnerable mothers and children.

I. More than 2,300 Pregnancy Help Centers Nationwide Provide Vital, Highly Valued Services to Vulnerable Mothers and Children on a Free or Low-Cost Basis.

More than 2,300 Pregnancy Help Centers ("PHCs") nationwide provide vital social and, in some cases, medical services to vulnerable mothers and children.[9]

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[9] This brief uses the term "Pregnancy Help Centers" (PHCs). Other terms that have been used include the now generally disfavored

PHCs function as important links in community public health networks. The public value placed on PHC work manifests in various government actions including referrals, funding, and recognitions. Individual consumers also strongly value the contributions of PHCs in their local communities.

A. Data from 2010 Shows that Pregnancy Help Centers Served More than 2 Million People, with Estimated Community Cost Savings of More than $100 Million.

Pregnancy Help Centers (PHCs) provide a variety of free and low-cost services to pregnant women and other consumers. PHCs number "more than 2,300" nationwide.[10] Major national affiliation organizations for PHCs include Petitioner National Institute of Family and Life Advocates (NIFLA), Heartbeat International, and Care Net.

"Recording the scope of pregnancy center work in the United States poses challenges due to the differences in reporting among the many agencies involved, which are collaborating with increasing frequency."[11] However, the Family Research Council ("FRC"), a Washington, D.C., think tank, published a

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"Crisis Pregnancy Center" (CPC) designation, as well as "Pregnancy Resource Centers" (PRCs), "Pregnancy Care Centers" (PCCs), and "Pregnancy Medical Centers" (PMCs).

[10] Family Research Council, *A Passion to Serve, A Vision for Life* 14 (2009) [hereinafter PHC Report 1st Edition], http://downloads.frc.org/EF/EF09I51.pdf.

[11] *Id.* at 21.

report ("PHC Report") in 2009 on pregnancy center work that uses information including "published data from the major national affiliation groups."[12] A subsequent report ("PHC Report 2d Edition") published by FRC includes updated data from 2010 "to quantify the positive impact" made by PHCs.[13]

The PHC Report 2d Edition estimated the accomplishments of nearly 2,000 PHCs "using two online surveys completed by pregnancy centers affiliated with Care Net, Heartbeat International, and NIFLA."[14] Of note, "[t]he data represent only pregnancy centers in the U.S. affiliated with one or more of these organizations."[15]

The PHC Report 2d Edition includes the following findings.

- "In 2010, [PHCs] served over 2.3 million people with pregnancy assistance, abstinence counseling and education, community outreach programs and referrals, and public health linkages."[16]

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[12] *Id.*

[13] PHC Report 2d Edition, *supra* note 2, at iv.

[14] *Id.* at 2–3.

[15] *Id.* at 3.

[16] *Id.* at iv.

- "A conservative estimate of community cost savings for these services during 2010 is over $100 million."[17]

- "In addition to specific cost savings, pregnancy centers drew on the help of 71,000 volunteers who performed an estimated 5,705,000 uncompensated hours of work in 2010."[18]

Findings for specific services provided and estimated cost savings for those services include the following.

- "Consulting with New Clients" – Total Number 963,000 – Estimated Cost Saving of $24,076,000.[19]

- "Ultrasounds Performed" – Total Number 230,000 – Estimated Cost Saving of $57,485,000.[20]

- "Pregnancy Tests" – Total Number 720,000 – Estimated Cost Saving of $4,323,000.[21]

According to the PHC Report 2d Edition, "[PHC] services are generally provided at little or no cost to

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[17] *Id.*

[18] *Id.* at 1.

[19] *Id.*

[20] *Id.*

[21] *Id.*

clients."[22] This is due "in large part . . . to individual charitable donations and the high proportion of volunteers who work at the centers."[23]

B. Local Pregnancy Help Centers Provide a Wide Range of Social Services.

PHCs fall into two main categories based on whether they offer direct medical services. "The growth in the number of medically oriented pregnancy centers has been impressive."[24] According to the PHC Report 2d Edition, "[i]n 2008 there were approximately 700 medical [PHCs], but by 2010 the number had grown to over 1,000."[25]

As the PHC Report 2d Edition explains, and as set forth below, direct services provided by PHCs, including medical PHCs, include ultrasound and other medical services, prenatal care, education on prenatal development, parenting education classes, and material assistance to mothers and children.[26]

i. Ultrasound and other medical services

"Medical pregnancy clinics operate today under the license of a physician-medical director and, where

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[22] *Id.* at 7.

[23] *Id.*

[24] *Id.* at 8.

[25] *Id.*

[26] *See id.* at 7–10, 16–18, 20–21, 24.

required, under state licensure as well."[27] According to the PHC Report 2d Edition, "[m]edical services are provided by numerous certified and licensed professionals as well as trained specialists proficient in a wide range of maternal and child health areas."[28]

Ultrasound services compose one area of medical care provided by many PHCs. "These services provide confirmation of pregnancy, determine if the pregnancy is viable (through fetal cardiac activity), establish if it is a uterine or ectopic pregnancy (which can be life-threatening), and measure how far along the pregnancy is by verifying the developing baby's gestational age."[29]

Following the provision of ultrasound services, PHCs "refer the new mom for follow-up obstetrical care to ensure entrance into prenatal care."[30] Furthermore, "[w]hen adverse medical conditions are suspected, women are referred into specialized medical care."[31]

The PHC Report 2d Edition also reports the following.

- "In 2010, close to 230,000 ultrasounds were performed at pregnancy medical centers."[32]

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[27] *Id.* at 7.

[28] *Id.* at 7–8.

[29] *Id.* at 9.

[30] *Id.*

[31] *Id.*

[32] *Id.*

- "[A]pproximately 54 percent of [PHCs] offer ultrasound services."[33]
- "The approximately 1,000 medical [PHCs] that provide limited ultrasound deliver this service at little or no cost to women."[34]

In addition to ultrasound services, other specialty areas of medical care provided by PHCs include

- "obstetrical medical care and nursing,"
- "childbirth classes,"
- "labor coaching," and
- "midwife services."[35]

In addition, after birth, "some [PHCs] are able to offer"

- "lactation consultation,"
- "nutrition consulting," and
- "social work."[36]

Furthermore, some PHCs also offer testing for sexually transmitted diseases ("STDs"). According to the Centers for Disease Control and Prevention, some

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[33] *Id.* at 8.

[34] *Id.* at 9.

[35] *Id.* at 8.

[36] *Id.*

STDs can cause infertility.[37] The PHC Report 2d Edition reports that in 2010 as many as 260 medical PHCs offered STD testing and treatment.[38] That number likely has grown since then.[39]

ii. Prenatal care

According to the *Eunice Kennedy Shriver* National Institute of Child Health and Human Development, "[h]aving a healthy pregnancy is one of the best ways to promote a healthy birth."[40] "[P]renatal care can help prevent complications and inform women about important steps they can take to protect their infant and ensure a healthy pregnancy."[41] "Getting early and regular prenatal care improves the chances of a healthy pregnancy."[42]

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[37] *Sexually Transmitted Diseases (STDs) – STDs & Infertility*, Ctrs. for Disease Control & Prevention, https://www.cdc.gov/std/infertility/ (last updated October 18, 2016).

[38] PHC Report 2d Edition, *supra* note 2, at 10.

[39] *Cf. id.* (stating that centers began to "test and refer" for STDs "[a]bout ten years ago" and the number of medical PHCs offering STD testing grew from "over 200" in 2008 to "as many as 260" in 2010).

[40] *What Is Prenatal Care and Why Is It Important?*, Nat'l Inst. Child Health & Hum. Dev., https://www.nichd.nih.gov/health/topics/pregnancy/conditioninfo/Pages/prenatal-care.aspx (last visited Apr. 11, 2017).

[41] *Id.*

[42] *Id.*

"Pregnancy medical clinics often make direct referrals to prenatal care for their patients who are pregnant. However," according to the PHC Report 2d Edition, "a growing number [of PHCs] are also providing prenatal care on-site."[43]

iii. Education on prenatal development

"Prenatal development education has been a primary method for [PHCs] to inform women about the changes taking place in early pregnancy and the dramatic development of human life inside of them."[44]

The vital importance of proper prenatal care to both maternal and fetal health is well established. Regular prenatal care can "[r]educe the risk of pregnancy complications" as well as "[r]educe the infant's risk for complications."[45] "[PHC] staff/volunteers inform their clients about the importance of eating well, getting exercise, avoiding smoking and alcohol, and coping with morning sickness or discomfort during pregnancy."[46]

iv. Parenting education classes

"Parenting education has become a core service provided [by PHCs] to equip new mothers and fathers

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[43] PHC Report 2d Edition, *supra* note 2, at 9.

[44] *Id.* at 17.

[45] *What Is Prenatal Care and Why Is It Important?*, Nat'l Inst. Child Health & Hum. Dev., *supra* note 40.

[46] PHC Report 2d Edition, *supra* note 2, at 17.

to be stronger and more nurturing parents."[47] According to the PHC Report 2d Edition, "Nationally, over 78 percent of centers offer this specialized education either through direct services on premises or in nearby churches, schools, and other locations."[48] Further, "more than 292,000 clients attended [PHC] parenting programs" in 2010.[49]

Topics covered in parenting education include

- "child development,"
- "bonding,"
- "nutritional counseling,"
- "communication skills,"
- "finance management,"
- "safety and injury prevention,"
- "family rules," and
- "positive discipline strategies."[50]

In addition, parenting education classes "also typically cover"

- "life skills topics to strengthen the development and resilience of mothers-to-be,"

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[47] *Id.* at 21.

[48] *Id.*

[49] *Id.*

[50] *Id.*

- "strategies for stress management," and
- "job skills training."[51]

v. Material assistance to mothers and children

According to the PHC Report 2d Edition, "[n]early every [PHC] provides clients with material support for pregnancy and infant care."[52] This support "may include"

- "maternity clothing,"
- "baby clothes and furniture,"
- "housing assistance," and
- "nutritional counseling and resources."[53]

Just as important as these goods themselves, PHCs provide this assistance in a warm and supporting environment.

C. Pregnancy Help Centers Function as Important Links in Broader Community Public Health Networks.

In addition to the goods and services PHCs provide directly, PHCs also "play a critical role in referring women for necessary health care and support services

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[51] *Id.*

[52] *Id.*

[53] *Id.*

across the country."[54] According to the PHC Report 2d Edition, "[r]eferrals to community agencies expose women to key education interventions spanning childbirth, breast-feeding, nutrition, sudden infant death syndrome (SIDS), unintentional and intentional injury prevention, and child safety seat instruction."[55] Examples of community referrals include:

- "Breastfeeding Classes,"
- "Social Services,"
- "State Children's Health Insurance Program (S-CHIP),"
- "Women Infants & Children (WIC),"
- "Housing Support,"
- "Maternity Homes,"
- "Childcare Programs,"
- "Prenatal Care,"
- "Nutrition Classes,"
- "Parenting Classes,"
- "Community Health Centers,"
- "Financial Assistance,"
- "Food Banks and Pantries,"
- "Legal Aid/Assistance,"

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[54] *Id.* at 11.

[55] *Id.*

- "Medicaid,"
- "Medical Services,"
- "Postpartum Depression Care," and
- "Transportation Help"[56]

PHCs "are embedded within almost every type of community across the country."[57] This reality underlies and magnifies the importance of the PHC referring role.

D. The Federal and State Governments Recognize and Value Pregnancy Help Center Contributions.

The public value placed on PHC work manifests in various government actions.

i. State health agencies refer pregnant women to Pregnancy Help Centers.

"In 2009, 92 percent of Care Net [PHCs] reported having clients referred to them from state health departments."[58] "These referrals demonstrate widespread support and trust in [PHCs]."[59] Indeed, many state health departments provide PHC contact or

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[56] *Id.* at 12–13.

[57] *Id.* at 11.

[58] Brief for Pregnancy Care Organizations and Centers, *supra* note 8, at 4 (citing Care Net, *2009 Care Net National Pregnancy Center Statistics* (2009)).

[59] *Id.*

other information in materials published on publicly accessible websites. *See Woman's Right to Know – Find a Service by County*, Ariz. Dep't of Health Servs. (listing resources, including PHCs, by county for women considering abortion);[60] Ark. Dep't of Health, *Directory of Helpful Services in Arkansas* (2015) (listing locations where pregnant women can receive support during pregnancy);[61] Del. Health and Social Servs., *Directory of Human Services for Delaware 2015* (2015) (including information for at least one PHC);[62] *Pregnancy*, Fla. Dep't of Health (including link to a statewide network of PHCs);[63] Ga. Dep't of Public Health, *Abortion: A Woman's Right to Know* (2016), (noting availability of private organizations that "offer a variety of services to meet the needs of pregnant women" but do not offer abortions or abortion referrals);[64] *Pregnancy Resources*, Idaho Dep't of Health

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[60] *Available at* http://azdhs.gov/prevention/womens-childrens-health/informed-consent/index.php#find-a-service (last visited Apr. 18, 2017).

[61] *Available at* http://www.healthy.arkansas.gov/programsServices/familyHealth/Documents/AbortionAlternatives.pdf.

[62] *Available at* http://dhss.delaware.gov/dhss/dssc/files/2015_hsdirectory.pdf.

[63] *Available at* http://www.floridahealth.gov/programs-and-services/womens-health/pregnancy/index.html#heading_1 (last visited Apr. 18, 2017).

[64] *Available at* https://dph.georgia.gov/sites/dph.georgia.gov/files/related_files/site_page/Abortion-A%20Womens%20Right%20to%20Know_2016_Eng.pdf (last visited Apr. 18, 2017).

& Welfare (including a directory of services that includes information about PHCs);[65] *If You are Pregnant: Directory of Available Services*, Kan. Dep't of Health & Env't Bureau of Family Health (2016) (providing a directory of available services for pregnant women, including PHCs);[66] *Women's Right to Know*, La. Dep't of Health (providing a link to information for PHCs);[67] *Locations Offering Free Ultrasounds, Organized by Geographic Region*, Mich. Dep't of Community Health (providing a list of locations where women can procure free ultrasounds, including many PHCs);[68] *If You Are Pregnant: A Directory of Services Available in Minnesota*, Minn. Dep't of Health (including a directory of services available to pregnant women, including PHCs);[69] *Alternatives to Abortion Program*, Mo. Dep't of Health & Senior Servs. (providing a searchable map of counties in Missouri and listing information on abortion alternatives,

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[65] *Available at* http://healthandwelfare.idaho.gov/Families/Pregnancy, AbortionParentingAdoptionResources/tabid/395/Default.aspx (last visited Apr. 19, 2017).

[66] *Available at* http://www.womansrighttoknow.org/download/Directory_of_Services_English.pdf.

[67] *Available at* http://www.dhh.louisiana.gov/index.cfm/subhome/29 (last visited Apr. 19, 2017).

[68] *Available at* http://www.michigan.gov/documents/mdch/ultrasound_196523_7.pdf (last updated Mar. 18, 2015).

[69] *Available at* http://www.health.state.mn.us/wrtk/directoryenglish2017.pdf (last updated Jan. 2017).

including PHCs);[70] *Pregnant? It's Your Decision. We're Here to Help.*, N.D. Dep't of Human Servs. (including contact information for pregnant women, including information about PHCs, as part of the state's abortion alternatives program);[71] Ohio Dep't of Health, *Where to Get Help With Your Pregnancy: 2011 Resource Directory* (2011) (listing service options for pregnant women, including many PHCs);[72] *A Woman's Right to Know Resource Directory*, Okla. Board of Med. Licensure & Supervision (providing a directory of resources including information about PHCs);[73] *Alternatives to Abortion Services Program*, Pa. Dep't of Human Servs. (providing link to Real Alternatives, a network of PHCs operating in Pennsylvania);[74] *Pregnancy Help Centers*, S.D. Dep't of Health (providing contact information for PHCs);[75] *Woman's Right to Know*, Tex. Dep't of State Health Servs.

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[70] *Available at* http://a2a.mo.gov/ (last visited Apr. 11, 2017).

[71] *Available at* https://www.nd.gov/dhs/info/pubs/docs/dn-88-alternatives-to-abortion.pdf (last visited Apr. 19, 2017).

[72] *Available at* https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/dspc/complaints---nursing-homes/PregnacyResDirectory2011_updated.pdf?la=en.

[73] *Available at* http://www.awomansright.org/pdf/ResourceDirectory.pdf (last visited Apr. 19, 2017).

[74] *Available at* http://www.dhs.pa.gov/citizens/reproductivehealth/alternativestoabortionservicesprogram/ (last visited Apr. 19, 2017).

[75] *Available at* https://doh.sd.gov/family/pregnancy/helpcenters.aspx (last visited Apr. 19, 2017).

(including a downloadable resource directory that provides a list of PHCs);[76] *Free Ultrasound Providers*, Va. Dep't of Health (listing providers of free ultrasounds for pregnant women in Virginia, including PHCs);[77] W. Va. Dep't of Health & Human Resources, *Women's Right to Know Resource Directory* (Nov. 13, 2015) (listing PHCs in the state);[78] Wis. Dep't of Health Servs., *Directory of Services for Women, Children and Families* (2015–2016) (providing resources for pregnant women, including contact information for PHCs).[79]

ii. Local Pregnancy Help Centers have received public funds.

One of the "hallmarks" of PHC operations is that "funds are raised locally and spent locally."[80] More than 80 percent of the PHCs covered by the PHC Report 2d Edition "receive[d] no public funding at all."[81]

However, PHCs have received financial support from both the federal and state governments. At the

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[76] *Available at* http://www.dshs.texas.gov/wrtk/ (last visited Apr. 19, 2017).

[77] *Available at* http://www.vdh.virginia.gov/pregnancy/free-ultrasound-providers/ (last visited Apr. 19, 2017).

[78] *Available at* http://www.wvdhhr.org/wrtk/wrtk_resource_directory_december_2015.pdf.

[79] *Available at* https://www.dhs.wisconsin.gov/publications/p4/p40073.pdf.

[80] PHC Report 2d Edition, *supra* note 2, at 31.

[81] *Id.*

federal level, "[p]ublic . . . funding of [PHCs] began in 1996 when the federal welfare reform law allocated $50 million to Title V abstinence-only education programs, which some states made available to [PHCs]."[82] "The first direct allocation of federal grants to [PHCs] began in 2000 under the maternal and child health block grant's Special Projects of Regional Significance Program."[83] Under this program, "[c]lose to $3 million . . . was directed that year to groups that identify as [PHCs], and that amount doubled to $6 million in 2002."[84]

At the state level, "Legislators frequently attempt to fund [PHCs] . . . through state-sponsored programs, specific grants, or tax credits."[85] According to another source, "in 2009, at least eleven states provided direct taxpayer funding to [PHCs], or approved such funding."[86] More, "At least twenty-six states . . . have approved 'Choose Life' specialty license plate programs where the proceeds benefit [PHCs] and other

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[82] Nat'l Abortion Fed'n, *Crisis Pregnancy Centers: An Affront to Choice* 11 (2006), https://www.prochoice.org/pubs_research/publications/downloads/public_policy/cpc_report.pdf [hereinafter NAF Report].

[83] *Id.* at 11–12.

[84] *Id.* at 12 (citing Vitoria Lin & Cynthia Dailard, *Crisis Pregnancy Centers Seek to Increase Political Clout, Secure Government Subsidy*, The Guttmacher Report on Public Policy, Feb. 2002, Vol. 5, No. 1.).

[85] *Id.* at 12.

[86] Brief for Pregnancy Care Organizations and Centers, *supra* note 8, at 25.

organizations providing abortion alternatives. These plates have raised nearly $14,000,000 for [PHCs] and abortion alternatives."[87]

iii. Pregnancy Help Centers have been recognized by government at both the federal and state levels.

PHC contributions have been recognized by government at both the state and federal levels. At the federal level, 56 PHCs "were honored at a [2008] White House event" where "[t]hen-Assistant Secretary of Health Dr. Joxel Garcia conducted the ceremony commending outstanding centers . . . . The awards were bestowed in the name of the President as part of the recognition program of USA Freedom Corps."[88] Through legislative resolutions PHCs have also been recognized in many states.[89]

Individual public officials have also recognized PHCs. This recognition is bipartisan, as evidenced by the following representative examples.

- "I strongly commend the life-affirming work of pregnancy care centers. The success rates and national expansion of these pregnancy care centers are a testament to their invaluable work

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[87] *Id.*

[88] PHC Report 1st Edition, *supra* note 10, at 64.

[89] *See* Brief of Pregnancy Care Organizations and Centers, *supra* note 8, at 25–28; Jeanneane Maxon, *Positive Pregnancy Center Resolutions Sweep the Country*, Heartbeat International (last visited Apr. 18, 2017), https://www.heartbeatinternational.org/positive-pregnancy-center-resolutions-sweep-the-country.

in the lives of communities and individuals over the years. *These networks provide services that are often unavailable elsewhere to expectant mothers.*" – Rep. Daniel Lipinski (D-Ill.)[90]

- "Pregnancy Resource Centers give women a safe and supportive environment to ask questions and receive the medical care and information needed to ensure healthy pregnancies and births." – Rep. Heath Shuler (D-N.C.)[91]

- "The more than 2,000 pregnancy care centers across the country are an expression of charity and genuine love for people dealing with life-changing situations. The outpouring of local support over the years shown by supporters, organizers, and staff embody the spirit of volunteerism and *truly make pregnancy care centers one of the most important grassroots movements in American history.*" – Rep. John Boehner (R-Ohio)[92]

E. Individual Consumers Strongly Value the Contributions Provided by Pregnancy Help Centers.

"[PHCs] receive an extraordinarily high approval rating from the clients they serve. In a 2009 survey by

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[90] PHC Report 1st Edition, *supra* note 10, at 22 (formatting altered, emphasis added, and internal quotations omitted).

[91] *Id.* at 68 (formatting altered and internal quotations omitted).

[92] *Id.* at 68 (formatting altered, emphasis added, and internal quotations omitted).

Care Net, 97 percent of client exit surveys were positive about the client's experience at the center."[93] Similarly, "98.7 percent of Care Net-affiliated center clients who completed a written exit survey in 2013 indicated that their overall experience at the center was positive. This number was 97% in 2014."[94]

Putting these 2013 and 2014 results in context, Care Net claimed in 2016 that "[t]his satisfaction rating is higher than that of Netflix, Chipotle, and the iPhone."[95]

The Care Net statistics correspond very well with *Amicus* Lozier Institute's own findings. In a 2015 report called Turning Hearts Toward Life II, the Lozier Institute conducted research "via a national survey of 1,300 respondents" and found that the "reactions to the centers and their work were overwhelmingly positive."[96] At one point this research "[d]rill[ed] down with those respondents who had either been to a PHC or knew someone who had sought its services" and found that "nearly nine in 10 females and eight in 10

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[93] Brief for Pregnancy Care Organizations and Centers, *supra* note 8, at 2.

[94] Ardee Coolidge, *Care Net Pregnancy Centers Saved 70,000 Lives in 2015*, Care Net (Sept. 1, 2016), https://www.care-net.org/abundant-life-blog/care-net-pregnancy-centers-saved-70000-lives-in-2015.

[95] *Id.* (linking to sources).

[96] Chuck Donovan, *Pregnancy Centers: A Consensus Service to Women and Children*, Charlotte Lozier Inst. (Apr. 13, 2017), https://lozierinstitute.org/pregnancy-help-centers-a-consensus-service-to-women-and-children/.

males described their experience as 'very positive' or 'somewhat positive.'"[97] *Remarkably, "these percentages were almost the same whether the person responding self-described as pro-life or pro-choice."*[98]

Given the extremely high favorability ratings PHCs enjoy, it is no surprise that people want them in their communities. The survey referenced above "went on to ask whether the respondents would desire for a PHC to be in their community and if the respondent regarded a PHC as a necessary community resource for 'free services to women with an unexpected pregnancy.'"[99] "Regarding the desirability of having a PHC in the community" and "asking only those respondents who were not sure whether there was a PHC in their community," 73 percent of women reportedly "replied that a PHC was desirable."[100] "Moreover, fully 92 percent of females participating in the poll answered that they regarded such centers as 'very necessary[']or 'fairly necessary.'"[101] Of note, "The poll question made it very plain that these pro-life centers neither offer nor even refer for abortions."[102]

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[97] *Id.*

[98] *Id.* (emphasis added).

[99] *Id.*

[100] *Id.*

[101] *Id.*

[102] *Id.*

II. Forcing Pregnancy Help Centers to Refer for Abortion Undermines Their Mission and the Principles that Inspire Them to Serve Vulnerable Mothers and Children.

Petitioners ably argue that the California law in question here violates their First Amendment freedoms. In writing separately, and mindful of the Court's guidelines for *amicus* contributions, *Amicus* Lozier Institute seeks here only to emphasize how significantly this First Amendment violation burdens PHCs.

For the people who are employed by, donate to, or volunteer with local PHCs, the work is truly a labor of love. PHCs are devoted to loving both mothers and children through practical action. In many if not most cases, this devotion springs from deeply held religious or moral commitments about the value of all human life and the obligation to serve those in society who are suffering, in crisis, or at disadvantage. Forcing PHCs to refer for abortion undermines their mission and burdens the principles that inspire them to serve vulnerable mothers and children.

Whatever interest California might assert in providing information about the availability of abortion services, it cannot be denied that, as this Court has stated, abortion is a "unique act," *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833, 852 (1992), and is "inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life," *Harris v. McRae*, 448 U.S. 297, 325 (1980). In the words of one federal court, "[t]he rationality of distinguishing between abortion services and other medical services

when regulating physicians or women's healthcare has long been acknowledged by Supreme Court precedent." *Greenville Women's Clinic v. Bryant*, 222 F.3d 157, 173 (4th Cir. 2000). Nowhere is the "unique" and "inherently different" nature of abortion more deeply felt than in forcing pro-life individuals and institutions to promote or participate in it.

CONCLUSION

Pregnancy Help Centers make up "one of the most important grassroots movements in American history."[103] The Court should grant the petition for a writ of certiorari and protect the freedom of Pregnancy Help Centers to serve mothers and children in a way that is consistent with their mission and values.

Respectfully submitted,

CATHERINE GLENN FOSTER
Counsel of Record
THOMAS M. MESSNER
1200 New Hampshire Ave., N.W.
Suite 750
Washington, DC 20036
(202) 223-8073
cfoster@lozierinstitute.org

Counsel for Amicus Curiae

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[103] PHC Report 1st Edition, *supra* note 10, at 68 (quoting Rep. John Bochner (R-Ohio)) (formatting altered and internal quotations omitted).